

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Amendment of 73.202(b)) MB Docket No. _____
FM Table of Allotments) RM- _____
FM Broadcast Stations)
(Iola, Texas))

RM-11411

To: Office of the Secretary
Attn: Chief, Audio Division,
Media Bureau

PETITION FOR RULE MAKING

Charles Crawford hereby requests the allotment of
Channel 299A to Iola, Texas.¹ The following summarizes the
changes requested in this Petition:

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Iola, TX	-----	299A

Petitioner respectfully submits that the public
interest would be served by allocating Channel 299A to
Iola, Texas as that community's first FM service. Iola
is an unincorporated community with a population of 331
people.² However, on November 6, 2007, Iola residents will

¹ Pursuant to *Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services*, 21 FCC Rcd 14212 (2006) ("Streamlining R&O"), Charles Crawford is contemporaneously filing a Form 301 application for this proposal along with the requisite filing fee. Should this channel be allotted to Iola, Texas, Charles Crawford hereby states that he will construct the facility specified in the Form 301.

²2004-2005 Texas Almanac

UMB 07-49

vote on incorporating the community. This movement has been organized by the Iola Committee for Incorporation. Thirty six businesses in Iola have been given a credit rating by Dun & Bradstreet as of November 2002.³ Iola has its own school district,⁴ Volunteer Fire Department⁵, community center, post office⁶ and a number of local churches.⁷ Iola is a community that is certainly deserving of a first FM service. "Local radio stations play an important role in their communities, providing local news, information and entertainment to residents, and generally serving as good corporate citizens in the local community life. This is particularly true in smaller towns where the radio stations are limited in number. Yet there are still rural areas of our country that do not have even a local radio station."⁸ The proposed channel 299A will provide additional diversity and an outlet for local self-expression to Iola residents and therefore is in the public interest.

Attached hereto is a channel study confirming that

³ 2004-2005 Texas Almanac

⁴ Iola Independent School District, Iola High (Grades 7-12) and Iola Elementary (Grades PK-6)

⁵ Iola Volunteer Fire Department, 23574 Brazos Ave., Iola, TX 77861 (936) 394-2222.

⁶ US Post Office, 23329 Fm 39, Iola, TX 77861, (936) 394-5201.

⁷ Iola Missionary Baptist Church, 23471 Fm 244Rd, Iola, TX 77861, (936) 394-2701. Evergreen Freewill Baptist Church & Kings Table Apostolic Church.

⁸ Statement of Commissioner Kevin J. Martin, MM & O, MM Docket 99-240, released May 20, 2004.

Channel 299A can be allocated to Iola, Texas, consistent with Section 73.207 of the Commission's Rules⁹ with respect to all existing and proposed domestic allotments and facilities. (See, Attachment A) Note, the petition to add channel 299A to Normangee, Texas, and the related counterproposal to add channel 297C3 to Bédias, Texas, both incorporated in MB Docket No. 06-66, were dismissed per Report & Order, (DA 07-4125), released October 5, 2007. (See Attachment B) Also note, the counterproposal to add channel 299C3 at Bédias, Texas, incorporated in MB Docket No. 06-43, which was consolidated with MB Docket No. 06-66, was also dismissed per Report & Order, (DA 07-4125), released October 5, 2007. (See, Attachment B) A 70 dBu signal can be provided to Iola from the proposed reference coordinates. Reference coordinates for Channel 299A at Iola, Texas are:

30 40 42 N
96 09 30 W

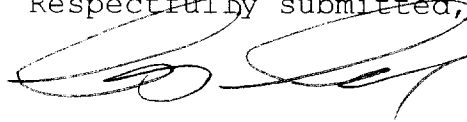
I hereby certify that should this petition be granted and Channel 299A is allotted to Iola, Texas as specified in my petition and in my Form 301 for this channel which I have simultaneously electronically filed with this Petition for Rule Making along with the requisite Form 301 filing

⁹ 47 C.F.R. 73.207.

fee, I will participate in the auction for the channel.

The factual information provided in these Comments is correct and true to the best of my knowledge.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Charles Crawford', written over a horizontal line.

Charles Crawford
4553 Bordeaux Ave.
Dallas, Texas 75205
(214) 642-6410

cc: Gene A. Bechtel, Law Office of Gene Bechtel, Suite 600, 1050 17th Street, N.W., Washington, D.C. 20036, Telephone (301) 340-1651, telecopier (301) 340-6811, attorney for Charles Crawford. It is requested that the Commission and any parties who may file pleadings in the captioned matter serve copies to Mr. Bechtel as well as Charles Crawford.

October 8, 2007

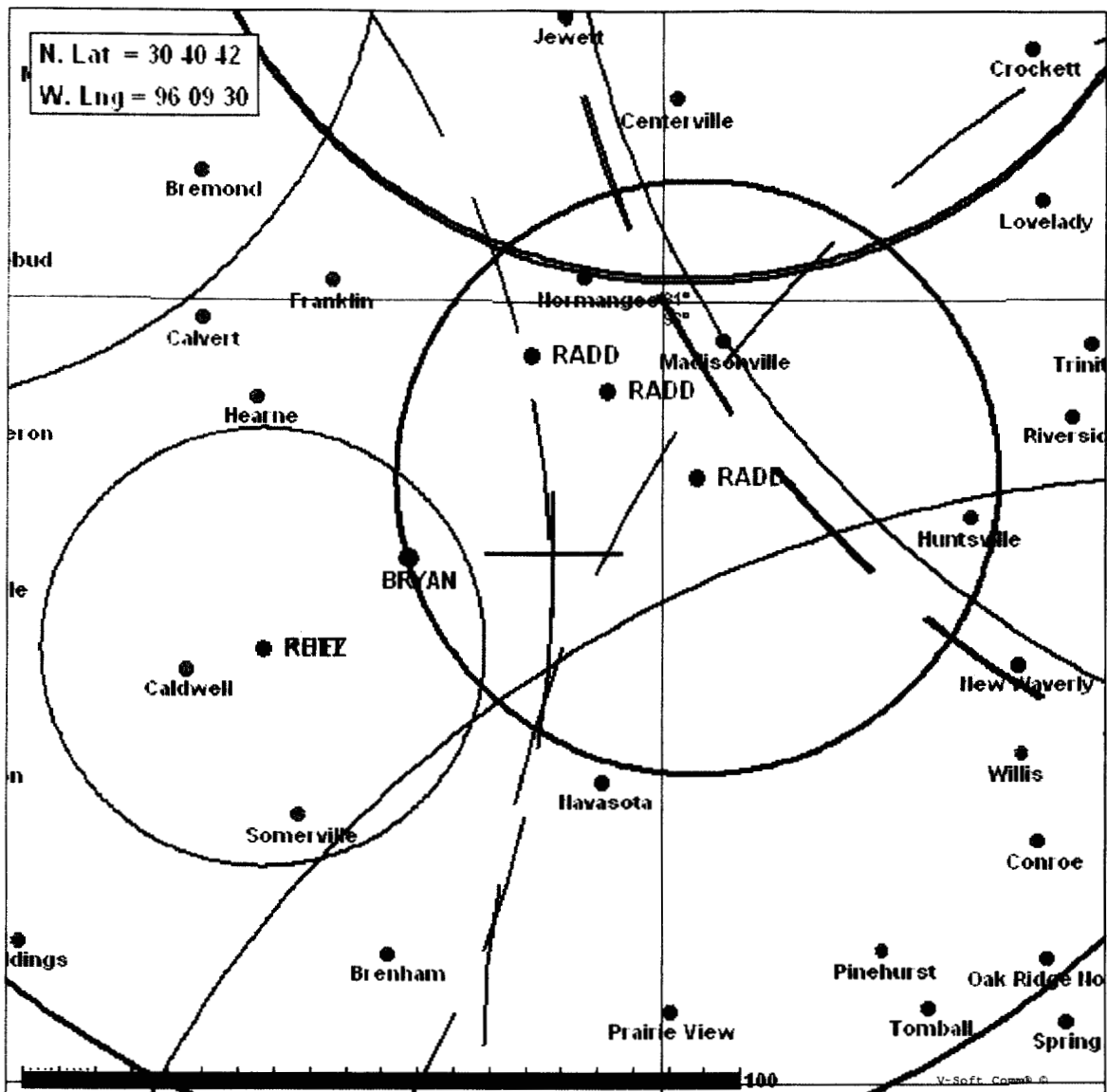
Iola Petition

Attachment A

(Channel Study for Channel 299A at Iola, Texas)

CH 299 A, AA, 107.7 MHz

Kzia, Inc.



Data Date:10-02-07 Job Date:10-05-07

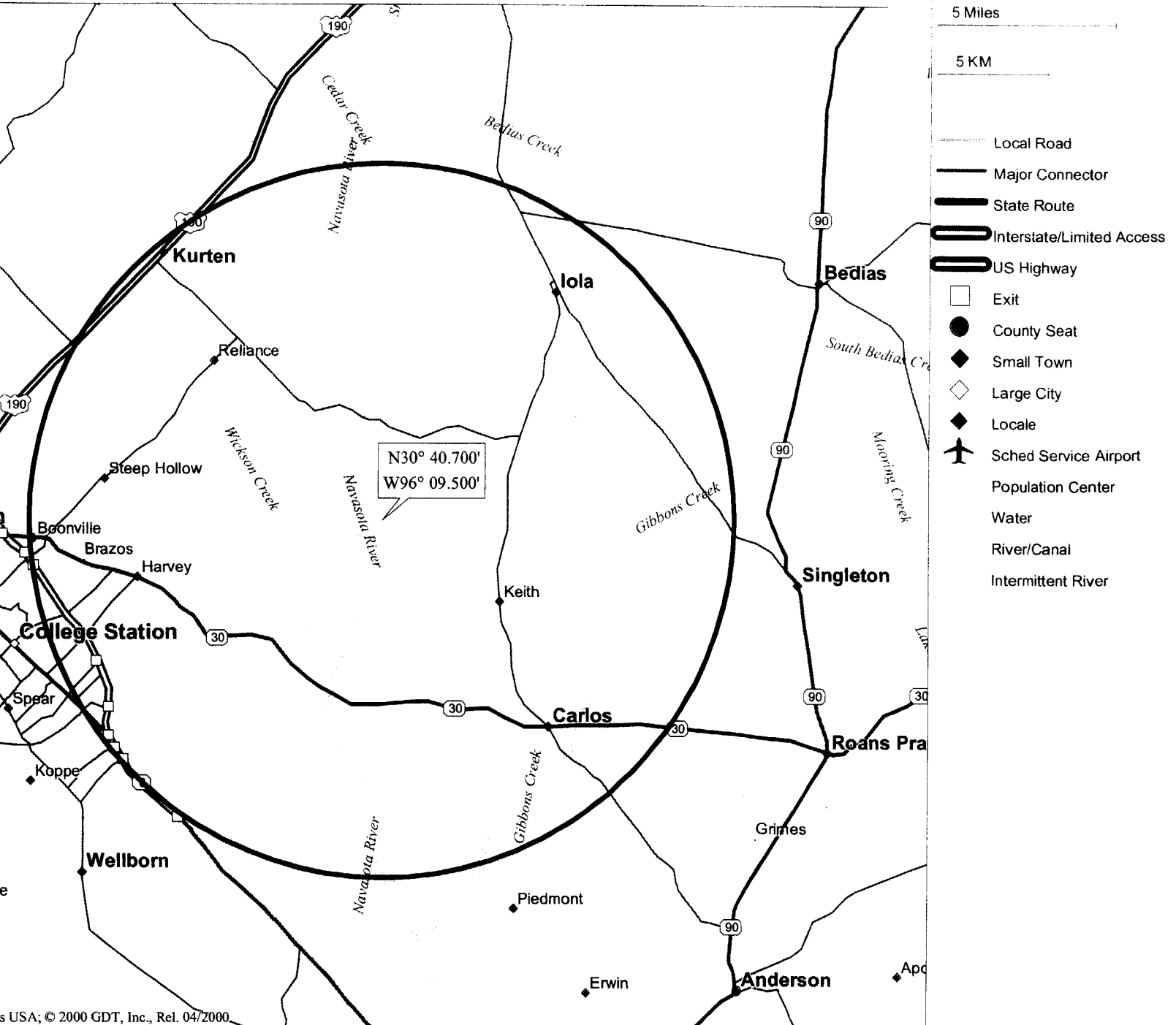
Call	CH#	Type	Location		Azi	D-KM	FCC	Margin
RADD	299C3	ADD	Bedias	TX	18.0	24.39	142.0	-117.61
RADD	299A	ADD	Normangee	TX	353.6	28.44	115.0	-86.56
RADD	297C3	ADD	Bedias	TX	61.5	22.74	42.0	-19.26
KINV	299C3	LIC N	Georgetown	TX	267.9	142.39	142.0	0.39
KQQK	300C	LIC N	Beaumont	TX	115.0	171.45	165.0	6.45
RDEL	297A	DEL	Caldwell	TX	251.9	42.60	31.0	11.60
KHTZ	297A	LIC	Caldwell	TX	251.9	42.60	31.0	11.60
KHTC	298C	LIC	Lake Jackson	TX	149.8	178.21	165.0	13.21
KTBQ	299C3	LIC N	Nacogdoches	TX	54.3	173.59	142.0	31.59
KTBQ.C	299C3	CP N	Nacogdoches	TX	54.3	174.07	142.0	32.07
AL7147	299C3	RSV	Nacogdoches	TX	53.1	178.96	142.0	36.96
RDEL	300A	DEL	Oakwood	TX	9.6	111.80	72.0	39.80
RADD	300A	ADD	Oakwood	TX	9.6	111.80	72.0	39.80
RADD	300A	ADD	Oakwood	TX	9.5	112.62	72.0	40.62
KHCK-FM	300A	LIC	Robinson	TX	314.1	133.25	72.0	61.25

Iola, TX CH 299A 70 dBu

Fri Oct 05 12:11 2007
Scale 1:250,000 (at center)

5 Miles

5 KM



Attachment B

(Report & Order, (DA 07-4125), consolidated Dockets 06-43/
Oakwood, Texas & 06-66/ Normangee, Texas, released October
5, 2007)

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Section 73.202(b),)	
FM Table of Allotments,)	MB Docket No. 06-43
FM Broadcast Stations,)	RM-11313
(Oakwood, Texas))	
)	
(Normangee, Texas))	MB Docket No. 06-66
)	RM-11321

REPORT AND ORDER
(Proceeding Terminated)

Adopted: October 3, 2007**Released: October 5, 2007**

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it two *Notices of Proposed Rule Making*.¹ We are consolidating these two proceedings because the counterproposals filed in each proceeding are mutually exclusive.² Charles Crawford filed comments and a 'Request for Approval of Withdrawal' ("Withdrawal Request") in both MB Docket No. 06-43 and MB Docket No. 06-66. Linda Crawford filed a counterproposal in MB Docket No. 06-43 and 'Request for Approval of Withdrawal.' In MB Docket No. 06-66, Roy Henderson, ("Henderson"), licensee of Station KHTZ, (*formerly* KLTR), Channel 297A, Caldwell, Texas, filed a counterproposal, 'Motion for Leave to Supplement Comments and Counterproposal,' and 'Memorandum of Law.' No other comments or counterproposals were received in response to this proceeding.

2. **Background.** The *Notice* in MB Docket No. 06-43, proposed the allotment of Channel 300A at Oakwood, Texas, as its first local service. Charles Crawford filed timely comments, reiterating its expression of interest in the proposed Oakwood allotment but later filed a Withdrawal Request in compliance with Section 1.420(j) of the Rules, stating that he desires to withdraw his petition and expression of interest.

3. In response to this *Notice*, Linda Crawford filed a timely counterproposal, requesting the allotment of Channel 299C3 at Bedias, Texas, as its first local service and Channel 300A at Oakwood, Texas at new reference coordinates to resolve the conflict with the *Notice*'s proposal. Linda Crawford requested to withdraw her counterproposal after the proceeding closed. This request complied with Section 1.420(j) requirements.

4. The *Notice* in MB Docket No. 06-66, proposed the allotment of Channel 299A at Normangee,

¹ See *Oakwood, Texas*, Notice of Proposed Rule Making, 21 FCC Rcd 1643 (MB 2006) ("*Notice*") and *Normangee, Texas*, Notice of Proposed Rule Making, 21 FCC Rcd 3315 (MB 2006) ("*Notice II*").

² These two proceedings are being consolidated because the counterproposal, requesting the allotment of Channel 299C3 at Bedias, Texas filed by Linda Crawford in connection with MB Docket No. 06-43 conflicts with the counterproposal, proposing the reallocation of FM Station KHTZ from Channel 297A at Caldwell, Texas to Channel 297C3 at Bedias, Texas filed by Roy Henderson in MB Docket No. 06-66.

Texas, as its first local service. In compliance with Section 1.420(j) of the Rules, Charles Crawford later filed a Withdrawal Request, stating that he desires to withdraw his petition and expression of interest for Channel 299A at Normangee.

5. In response to this *Notice*, Henderson filed a timely counterproposal, requesting the reallocation of FM Station KHTZ, Channel 297A at Caldwell to Channel 297C3 at Bedias, Texas, as its first local service and modification of the FM Station KHTZ license; and the reallocation of FM Station KCLB, Channel 267A from Madisonville to Caldwell, Texas, to prevent removal of Caldwell's sole local service and modification of the FM Station KCLB authorization. Henderson filed a Memorandum of Law, stating that this proceeding is no longer contested and its proposal results in a preferential arrangement of allotments, under the Commission's FM allotment priorities.³ Moreover, Henderson states that its proposal does not violate the Commission's backfill policy.⁴

6. **Discussion.** In compliance with Section 1.420(j) of the Rules, we will grant both requests of Charles Crawford to withdraw its petitions for Channel 300A at Oakwood, Texas, and Channel 299A at Normangee, Texas; and the request of Linda Crawford to withdraw her counterproposal filed in connection with MB Docket No. 06-43. Each party has filed an affidavit pursuant to Section 1.420(j) of the Rules, certifying that it has not nor will not receive, either directly or indirectly, any money or other consideration in connection with its respective withdrawal request. A showing of continuing interest is required before a channel is allotted to a community in compliance with the *Appendix* to the *Notice*. It is the Commission's policy to refrain from making a new allotment to a community absent an expression of interest. As such, we are dismissing the petitions, requesting the allotment of Channel 300A at Oakwood, Texas, and Channel 299A at Normangee, Texas, along with the counterproposal filed by Linda Crawford in accordance with Section 1.420(j) of the Rules.

7. We are also dismissing Henderson's counterproposal. Specifically, the proposed reallocation of FM Station KCLB, Channel 267A from Madisonville to Caldwell, Texas conflicted with the proposed allotment of Channel 267A at Rosebud, Texas, requested in MB Docket No. 05-229.⁵ The proposed Rosebud allotment was still under consideration when Henderson filed its counterproposal. Counterproposals are required to be "technically correct and substantially complete" when filed and non-dependent on final actions in another proceeding.⁶ In allocation proceedings, a counterproposal is deemed defective if it conflicts with, or contingent upon, a cut-off proposal or a non-final decision in another proceeding.⁷ This policy not only affords protection to parties entitled to cut-off protection, it

³ See *Revision of FM Assignment Policies and Procedures*, Second Report and Order, 90 FCC 2d 88 (1988).

⁴ See *Pacific Broadcasting of Missouri, LLC*, Memorandum Opinion and Order, 18 FCC Rcd 2291 (MB 2003); *recon denied*, Memorandum Opinion and Order, 19 FCC Rcd 10950 (2004) (stating that vacant allotments can no longer be used as a backfill for the purposes of replacing the community's sole local service).

⁵ See *Rosebud and Madisonville, Texas*, Report and Order, 21 FCC Rcd 7898 (MB 2006); *recon denied*, Memorandum Opinion and Order, 22 FCC Rcd 3795 (MB 2007).

⁶ See *Saint Joseph, Louisiana et al.*, Memorandum Opinion and Order, 21 FCC Rcd 2254 (MB 2006) (stating that the counterproposal was properly dismissed as an impermissibly contingent proposal; and that counterproposal are required to be technically correct and substantially complete when filed).

⁷ See *Amboy, California, et al.*, Report and Order, 19 FCC Rcd 12405 (MB 2004), *citing* *Pinewood, South Carolina*, Memorandum Opinion and Order, 5 FCC Rcd 7609 (1990) (stating that it was proper to dismiss a petition conflicting with a cut-off counterproposal in another proceeding); *Auburn, Alabama, et al.*, Memorandum Opinion and Order, 18 FCC Rcd 10333 (MB 2003) (accepting only rulemaking proposals that rely upon actions in earlier rulemaking proceedings that are effective but not final); *Kaukauna and Cleveland, Wisconsin*, 6 FCC Rcd 7142 (MMB 1991) (continued....)

also is essential to the efficient processing of proposed changes to the FM Table of Allotments. Processing proposals that are not capable of being effectuated on the date of filing would cause an unnecessary expenditure of Commission resources and would impose an unfair burden on other parties.⁸

8. This document is not subject to the Congressional Review Act. (The Commission, is, therefore, not required to submit a copy of this Report and Order to GAO, pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A) because the proposed rule was dismissed.

9. Accordingly, IT IS ORDERED, That the Petitions for Rule Making filed by Charles Crawford for Channel 300A at Oakwood, Texas and Channel 299A at Normangee, Texas, ARE DISMISSED.

10. IT IS FURTHER ORDERED, That the counterproposal filed by Linda Crawford, IS DISMISSED.

11. IT IS FURTHER ORDERED, That the counterproposal filed by Henderson, IS DISMISSED.

12. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

13. For further information concerning this proceeding, contact Rolanda F. Smith, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief
Audio Division
Media Bureau

(Continued from previous page) _____

(stating that the counterproposal was not acceptable for rule making because it was short-spaced to cut-off proposal in another proceeding).

⁸ See *Cut and Shoot, Texas* 11 FCC Rcd 16383, 16384 (MMB 1996). (processing petitions for rule making which are contingent upon action by third parties "is not conducive to the efficient transaction of Commission business and imposes unnecessary burdens") See also *Auburn, supra* (processing contingent proposals is inefficient because "[t]he staff would either have to wait until the contingency is met, thereby further delaying action in a case, or would have to revisit a decision if a proposal was granted contingent on the outcome of an action that never occurred").